

Senate File 2291 - Introduced

SENATE FILE 2291
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3019)

A BILL FOR

1 An Act relating to various matters involving insurance and
2 the insurance division of the department of commerce, and
3 including penalties and applicability dates.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 502.305, subsection 2, Code 2016, is
2 amended to read as follows:

3 2. *Filing.* Except as provided in ~~subsection 10~~ section
4 502.302, subsection 3, and section 502.304A, subsection 3,
5 paragraph "g", a person who files a registration statement
6 or a notice filing shall pay a filing fee ~~of one-tenth of~~
7 ~~one percent of the proposed aggregate sales price of the~~
8 ~~securities to be offered to persons in this state pursuant to~~
9 ~~the registration statement or notice filing. However, except~~
10 ~~as provided in subsection 10, section 502.302, subsection 1,~~
11 ~~paragraph "a", and section 502.304A, subsection 3,~~ paragraph
12 "g", the annual filing fee shall not be less than fifty dollars
13 ~~or more than one thousand dollars~~ as prescribed by rules
14 adopted pursuant to chapter 17A. The administrator shall
15 retain the filing fee even if the notice filing is withdrawn or
16 the registration is withdrawn, denied, suspended, revoked, or
17 abandoned. The fees collected under this subsection shall be
18 deposited as provided in section 505.7. The administrator may
19 adopt rules requiring a filing to be made electronically. The
20 rules may provide for such electronic filing either directly
21 with the administrator or with a designee of the administrator.
22 The rules may require that the filer pay any reasonable costs
23 charged by the designee of the administrator for processing the
24 filings and that the filer submit any fees paid through the
25 designee.

26 Sec. 2. Section 502.305, subsection 10, Code 2016, is
27 amended by striking the subsection.

28 Sec. 3. Section 502.306, subsection 1, paragraph a, Code
29 2016, is amended to read as follows:

30 a. The registration statement as of its effective date
31 or before the effective date in the case of an order denying
32 effectiveness, ~~an amendment under section 502.305, subsection~~
33 ~~10, as of its effective date,~~ or a report under section
34 502.305, subsection 9, is incomplete in a material respect or
35 contains a statement that, in the light of the circumstances

1 under which it was made, was false or misleading with respect
2 to a material fact.

3 Sec. 4. NEW SECTION. **507E.3A Fraudulent sales practices —**
4 **penalty.**

5 1. A person commits a class "D" felony if the person, with
6 the intent to defraud another person in connection with any
7 sale, solicitation, or negotiation of insurance in this state,
8 willfully does any of the following:

9 a. Employs any deception, device, scheme, or artifice to
10 defraud.

11 b. Misrepresents, conceals, or suppresses any material fact.

12 c. Engages in any act, practice, or course of business which
13 operates as a fraud or deceit upon any person.

14 2. Notwithstanding subsection 1, a person commits a class
15 "C" felony if the person violates subsection 1, and such
16 violation results in a loss of more than ten thousand dollars.

17 Sec. 5. NEW SECTION. **514K.2 Health carrier disclosures —**
18 **public internet sites.**

19 1. A carrier that provides small group health coverage
20 pursuant to chapter 513B or individual health coverage pursuant
21 to chapter 513C and that offers for sale a policy, contract,
22 or plan that covers the essential health benefits required
23 pursuant to section 1302 of the federal Patient Protection and
24 Affordable Care Act, Pub. L. No. 111-148, and its implementing
25 regulations, shall provide to each of its enrollees at the
26 time of enrollment, and shall make available to prospective
27 enrollees and enrollees, insurance producers licensed under
28 chapter 522B, and the general public, on the carrier's
29 internet site, all of the following information in a clear and
30 understandable form for use in comparing policies, contracts,
31 and plans, and coverage and premiums:

32 a. Any exclusions from coverage and any restrictions on
33 the use or quantity of covered items and services in each
34 category of benefits, including prescription drugs and drugs
35 administered by a physician or clinic.

1 **b.** Any items or services, including prescription drugs, that
2 have a coinsurance requirement where the cost-sharing required
3 depends on the cost of the item or service.

4 **c.** The specific prescription drugs available on the
5 carrier's formulary, the specific prescription drugs covered
6 when furnished by a physician or clinic, and any clinical
7 prerequisites or prior authorization requirements for coverage
8 of the drugs.

9 **d.** The specific types of specialists available in the
10 carrier's network and the specific physicians included in the
11 carrier's network.

12 **e.** The process for an enrollee to appeal a carrier's denial
13 of coverage of an item or service prescribed or ordered by the
14 enrollee's treating physician.

15 **f.** How medications will specifically be included in or
16 excluded from the deductible, including a description of all
17 out-of-pocket costs that may not apply to the deductible for a
18 prescription drug.

19 2. The commissioner shall adopt rules pursuant to chapter
20 17A to administer this section.

21 3. The commissioner may impose any of the sanctions provided
22 under chapter 507B for a violation of this section.

23 Sec. 6. Section 521A.1, Code 2016, is amended by adding the
24 following new subsections:

25 NEW SUBSECTION. 5A. "*Group-wide supervisor*" means a
26 regulatory official who is authorized, and who is determined
27 or acknowledged by the commissioner pursuant to section
28 521A.6B to have sufficient significant contacts with an
29 internationally active insurance group, to engage in conducting
30 and coordinating group-wide supervision of the internationally
31 active insurance group.

32 NEW SUBSECTION. 7A. "*Internationally active insurance group*"
33 means an insurance holding company system that includes an
34 insurer registered under section 521A.4 and that meets all of
35 the following criteria:

1 a. The insurance holding company system has premiums written
2 in at least three countries.

3 b. The percentage of gross premiums written outside the
4 United States is at least ten percent of the insurance holding
5 company system's total gross written premiums.

6 c. Based on a three-year rolling average, the total assets
7 of the insurance holding company system are at least fifty
8 billion dollars or the total gross written premiums of the
9 insurance holding company system are at least ten billion
10 dollars.

11 Sec. 7. Section 521A.6A, subsection 1, unnumbered paragraph
12 1, Code 2016, is amended to read as follows:

13 With respect to any insurer registered under section
14 521A.4 and in accordance with ~~subsection 3~~ of this section,
15 the commissioner shall have the power to participate in a
16 supervisory college for any domestic insurer that is part
17 of an insurance holding company system with international
18 operations in order to determine compliance by the insurer with
19 this chapter. The powers of the commissioner with respect
20 to supervisory colleges include but are not limited to the
21 following:

22 Sec. 8. Section 521A.6A, subsections 2 and 3, Code 2016, are
23 amended by striking the subsections.

24 Sec. 9. NEW SECTION. 521A.6B Group-wide supervision of
25 internationally active insurance groups.

26 1. a. The commissioner may act as the group-wide supervisor
27 of an internationally active insurance group in accordance with
28 the provisions of this section. However, the commissioner may
29 authorize another regulatory official to act as the group-wide
30 supervisor where the internationally active insurance group
31 meets any of the following conditions:

32 (1) Does not have substantial insurance operations in the
33 United States.

34 (2) Has substantial insurance operations in the United
35 States, but not in Iowa.

1 (3) Has substantial insurance operations in the United
2 States and in Iowa, but the commissioner has determined
3 pursuant to the factors set forth in subsections 2 and 6 that
4 another regulatory official is the appropriate group-wide
5 supervisor.

6 *b.* In response to a request from an insurance holding
7 company system that does not otherwise qualify as an
8 internationally active insurance group, the commissioner may
9 make a determination of or acknowledge a group-wide supervisor
10 for such an insurance holding company system pursuant to this
11 section.

12 2. *a.* In cooperation with other state, federal, and
13 international regulatory agencies, the commissioner shall
14 identify a single group-wide supervisor for an internationally
15 active insurance group. The commissioner may determine that
16 the commissioner is the appropriate group-wide supervisor
17 for an internationally active insurance group that conducts
18 substantial insurance operations concentrated in this state,
19 or the commissioner may acknowledge that a regulatory official
20 from another jurisdiction is the appropriate group-wide
21 supervisor for the internationally active insurance group. In
22 making a determination or acknowledgment under this paragraph
23 "*a*", the commissioner shall consider the following factors:

24 (1) The place of domicile of the insurers within the
25 internationally active insurance group that hold the largest
26 share of the group's written premiums, assets, or liabilities.

27 (2) The place of domicile of the top-tiered insurers in the
28 insurance holding company system of the internationally active
29 insurance group.

30 (3) The location of the executive offices or largest
31 operational offices of the internationally active insurance
32 group.

33 (4) Whether another regulatory official is acting as
34 or is seeking to act as the group-wide supervisor of the
35 internationally active insurance group under a regulatory

1 system that the commissioner determines to be either of the
2 following:

3 (a) Substantially similar to the system of regulation
4 provided under the laws of this state.

5 (b) Otherwise sufficient in terms of providing for
6 group-wide supervision, enterprise risk analysis, and
7 cooperation with other regulatory officials.

8 (5) Whether another regulatory official acting as
9 or seeking to act as the group-wide supervisor for the
10 internationally active insurance group provides the
11 commissioner with reasonably reciprocal recognition and
12 cooperation.

13 b. Notwithstanding paragraph "a", even if the commissioner
14 is identified pursuant to this subsection as the group-wide
15 supervisor of an internationally active insurance group,
16 the commissioner may determine that it is appropriate to
17 acknowledge another regulatory official to serve as the
18 group-wide supervisor of the internationally active insurance
19 group.

20 c. The acknowledgment of a group-wide supervisor pursuant
21 to this subsection shall be made after consideration of the
22 factors listed in paragraph "a", subparagraphs (1) through
23 (5), and shall be made in cooperation with and subject to the
24 acknowledgment of other regulatory officials involved with
25 supervision of members of the internationally active insurance
26 group, and in consultation with the internationally active
27 insurance group.

28 3. Notwithstanding any other provision of law, when another
29 regulatory official is acting as the group-wide supervisor of
30 an internationally active insurance group, the commissioner
31 shall acknowledge that regulatory official as the group-wide
32 supervisor of the internationally active insurance group.
33 However, the commissioner shall make a new determination or
34 acknowledgment as to the appropriate group-wide supervisor for
35 the internationally active insurance group in the event that a

1 material change in the internationally active insurance group
2 results in either of the following:

3 *a.* The internationally active insurance group's insurers
4 domiciled in Iowa holding the largest share of the group's
5 premiums, assets, or liabilities.

6 *b.* Iowa being the place of domicile of the top-tiered
7 insurers in the insurance holding company system of the
8 internationally active insurance group.

9 4. Pursuant to section 521A.6, the commissioner is
10 authorized to collect from any insurer registered pursuant to
11 section 521A.4 all information necessary to determine whether
12 it is appropriate for the commissioner to act as the group-wide
13 supervisor of an internationally active insurance group or
14 to acknowledge another regulatory official to act as the
15 group-wide supervisor of the internationally active insurance
16 group. Prior to issuing a determination or acknowledgment
17 pursuant to this section, the commissioner shall notify the
18 insurer registered pursuant to section 521A.4 and the ultimate
19 controlling person within the internationally active insurance
20 group of the pending determination or acknowledgment. The
21 insurer and the internationally active insurance group shall
22 have not less than thirty days to provide the commissioner with
23 additional information pertinent to the commissioner's pending
24 determination or acknowledgment. The commissioner shall
25 publish the identity of the internationally active insurance
26 groups that the commissioner has determined are subject to
27 group-wide supervision by the commissioner.

28 5. If a determination is made that the commissioner is the
29 appropriate group-wide supervisor for an internationally active
30 insurance group, the commissioner is authorized to engage in
31 any of the following group-wide supervision activities:

32 *a.* Assessing the enterprise risks within the internationally
33 active insurance group to ensure all of the following:

34 (1) That the material financial condition and liquidity
35 risks to members of the internationally active insurance group

1 that are engaged in the business of insurance are identified
2 by management.

3 (2) That reasonable and effective mitigation measures are
4 in place.

5 b. Requesting, from any member of an internationally active
6 insurance group subject to the commissioner's group-wide
7 supervision, information necessary and appropriate to assess
8 enterprise risk, including but not limited to information about
9 the members of the internationally active insurance group
10 regarding all of the following:

11 (1) Governance, risk assessment, and management.

12 (2) Capital adequacy.

13 (3) Material intercompany transactions.

14 c. Coordinating and, through the authority of the
15 regulatory officials of the jurisdictions where members of
16 the internationally active insurance group are domiciled,
17 compelling the development and implementation of reasonable
18 measures designed to ensure that the internationally active
19 insurance group is able to timely recognize and mitigate
20 enterprise risks to members of the internationally active
21 insurance group that are engaged in the business of insurance.

22 d. Communicating with other state, federal, and
23 international regulatory agencies for members within the
24 internationally active insurance group and sharing relevant
25 information, subject to the confidentiality provisions of
26 section 521A.7, through supervisory colleges as set forth in
27 section 521A.6A or otherwise.

28 e. Entering into agreements with or obtaining documentation
29 from any insurer registered under section 521A.4, any member
30 of an internationally active insurance group, and any other
31 state, federal, or international regulatory agency for members
32 of the internationally active insurance group, that provides
33 the basis for or otherwise clarifies the commissioner's role as
34 group-wide supervisor of an internationally active insurance
35 group, including provisions for resolving disputes with other

1 regulatory officials. Such agreements or documentation shall
2 not serve as evidence in any proceeding that any insurer or
3 person within an insurance company holding company system not
4 domiciled or incorporated in this state is doing business in
5 this state or is otherwise subject to jurisdiction in this
6 state.

7 *f.* Other activities of group-wide supervision, consistent
8 with the authority and purposes set forth in this section, as
9 considered necessary by the commissioner.

10 6. If the commissioner acknowledges that another regulatory
11 official from a jurisdiction that is not accredited by the
12 national association of insurance commissioners is the
13 group-wide supervisor of an internationally active insurance
14 group, the commissioner may reasonably cooperate through a
15 supervisory college or otherwise, with group-wide supervision
16 undertaken by that regulatory official provided that all of the
17 following occur:

18 *a.* The commissioner's cooperation is in compliance with the
19 laws of this state.

20 *b.* The regulatory official acknowledged as the group-wide
21 supervisor of the internationally active insurance group also
22 recognizes and cooperates with the commissioner's activities
23 as a group-wide supervisor for other internationally active
24 insurance groups, where applicable. If such recognition and
25 cooperation is not reasonably reciprocal, the commissioner may
26 refuse recognition and cooperation to that regulatory official.

27 7. The commissioner is authorized to enter into agreements
28 with or obtain documentation from any insurer registered under
29 section 521A.4, any affiliate of the insurer, and any other
30 state, federal, or international regulatory agency for members
31 of the internationally active insurance group, that provides
32 the basis for or otherwise clarifies another regulatory
33 official's role as group-wide supervisor of an internationally
34 active insurance group.

35 8. An insurer registered under section 521A.4 that is

1 subject to this section shall be liable for and shall pay the
2 reasonable expenses of the commissioner's participation in
3 the administration of this section, including the engagement
4 of attorneys, actuaries, accountants, and other experts not
5 otherwise a part of the commissioner's staff and all reasonable
6 travel expenses. Any persons so retained shall be under the
7 direction and control of the commissioner and shall act in a
8 purely advisory capacity.

9 9. The commissioner shall adopt rules pursuant to chapter
10 17A to administer this section.

11 Sec. 10. Section 521A.7, subsection 1, Code 2016, is amended
12 to read as follows:

13 1. All information, documents, and copies thereof obtained
14 by or disclosed to the commissioner or any other person in
15 the course of an examination or investigation made pursuant
16 to [section 521A.6](#) or [521A.6A](#), and all information reported
17 or provided to the commissioner pursuant to [sections 521A.4](#)
18 and, [521A.5](#), [521A.6A](#), and [521A.6B](#), shall be given confidential
19 treatment and, shall not be subject to subpoena, shall not be
20 subject to discovery or admissible in evidence in a private
21 civil action, and shall not be made public by the commissioner
22 or any other person, except to insurance departments of other
23 states, without the prior written consent of the insurer to
24 which it pertains unless the commissioner, after giving the
25 insurer and its affiliates who would be affected thereby,
26 notice and opportunity to be heard, determines that the
27 interests of policyholders, shareholders, or the public will
28 be served by the publication thereof, in which event the
29 commissioner may publish all or any part thereof in such
30 manner as the commissioner may deem appropriate. However, the
31 commissioner is authorized to use the information, documents,
32 or copies obtained by, disclosed to, or reported or provided
33 to the commissioner as described in this subsection, in the
34 furtherance of any regulatory or legal action brought as a part
35 of the commissioner's official duties.

1 Sec. 11. Section 523I.808, Code 2016, is amended to read as
2 follows:

3 **523I.808 Examination fee.**

4 An examination fee shall be submitted with the cemetery's
5 annual report in an amount equal to five dollars for each
6 certificate of interment rights issued during the ~~fiscal year~~
7 time period covered by the report. The cemetery may charge
8 the examination fee directly to the purchaser of the interment
9 rights.

10 Sec. 12. Section 523I.813, subsections 1 and 2, Code 2016,
11 are amended to read as follows:

12 1. A perpetual care cemetery shall file an annual report at
13 the end of each ~~fiscal year~~ reporting period of the cemetery.

14 2. The report shall be filed with the commissioner within
15 four months following the end of the cemetery's ~~fiscal year~~
16 reporting period in the form required by the commissioner.

17 Sec. 13. APPLICABILITY. The following provision of this Act
18 is applicable to health insurance policies, contracts, or plans
19 that are delivered, issued for delivery, continued, or renewed
20 on or after January 1, 2017:

21 1. The section of this Act creating section 514K.2.

22 EXPLANATION

23 The inclusion of this explanation does not constitute agreement with
24 the explanation's substance by the members of the general assembly.

25 This bill relates to various matters involving insurance and
26 the insurance division of the department of commerce.

27 UNIFORM SECURITIES ACT. Code section 502.305(2) is
28 amended to provide that the filing fee for certain securities
29 registration filings will be prescribed by rule instead of
30 pursuant to a statutory formula based on the proposed aggregate
31 sales price of the securities to be offered.

32 Code section 502.305(10) is stricken, eliminating certain
33 requirements for amendments to registration statements when
34 securities are sold in the state in excess of the amount
35 registered at the time of sale. Code section 502.306(1)(a) is

1 amended to remove a cross-reference to the stricken subsection.

2 INSURANCE FRAUD. New Code section 507E.3A provides that
3 a person commits a class "D" felony if the person, with
4 intent to defraud another person in connection with any
5 sale, solicitation, or negotiation of insurance, willfully
6 employs any deception, device, scheme, or artifice to defraud;
7 misrepresents, conceals, or suppresses any material fact; or
8 engages in any act, practice, or course of business which
9 operates as a fraud or deceit upon another person. A person
10 who commits such insurance fraud that results in a loss of more
11 than \$10,000 is guilty of a class "C" felony.

12 A class "D" felony is punishable by confinement for no more
13 than five years and a fine of at least \$750 but not more than
14 \$7,500. A class "C" felony is punishable by confinement for no
15 more than 10 years and a fine of at least \$1,000 but not more
16 than \$10,000.

17 HEALTH CARE PLAN INFORMATION. New Code section 514K.2
18 requires insurance carriers that provide small group and
19 individual health coverage to provide specified information
20 on the carrier's internet site in a clear and understandable
21 form for use in comparing policies, contracts, and plans, and
22 coverage and premiums. The provision is applicable to health
23 insurance policies, contracts, or plans that are delivered,
24 issued for delivery, continued, or renewed on or after January
25 1, 2017.

26 INSURANCE HOLDING COMPANY SYSTEMS. Code section 521A.1 is
27 amended to add two new definitions. Code section 521A.1(5A)
28 defines a "group-wide supervisor" as a regulatory official
29 who is authorized, and who is determined or acknowledged by
30 the commissioner of insurance to have sufficient significant
31 contacts with an internationally active insurance group, to
32 engage in conducting and coordinating group-wide supervision
33 of the insurance group. Code section 521A.1(7A) defines an
34 "internationally active insurance group" as an insurance
35 holding company system that includes an insurer registered to

1 do business in this state that is a member of an insurance
2 holding company system that has premiums written in at least
3 three countries, at least 10 percent of gross premiums written
4 outside the United States, and based on a rolling three-year
5 average has total assets of at least \$50 billion or total gross
6 written premiums of at least \$10 billion.

7 Code section 521A.6A concerning supervisory colleges is
8 amended to strike subsections 2 and 3 relating to group-wide
9 supervisors. Code section 521A.6A(1) is amended to remove an
10 internal reference to subsection 3.

11 New Code section 521A.6B relates to group-wide supervision
12 of internationally active insurance groups. The commissioner
13 may act as the group-wide supervisor of an internationally
14 active insurance group in accordance with the provisions of
15 the new section. The commissioner may also authorize another
16 regulatory official to act as the group-wide supervisor based
17 on specified criteria. The provision requires the commissioner
18 to consider specific factors when determining whether the
19 commissioner or another regulatory official should act as the
20 group-wide supervisor. The commissioner is authorized to
21 collect information from any insurer registered in the state
22 as a member of an insurance holding company system and the
23 ultimate controlling person within the internationally active
24 insurance group as necessary for the commissioner to determine
25 or acknowledge who should be the group-wide supervisor.

26 The provision allows the commissioner to engage in
27 specified activities if acting as a group-wide supervisor.
28 The commissioner may also acknowledge that another regulatory
29 official is the group-wide supervisor and reasonably cooperate
30 with that official if the commissioner's cooperation complies
31 with Iowa law and the other official recognizes and cooperates
32 with the commissioner's activities as a group-wide supervisor
33 for other internationally active insurance groups.

34 An insurer registered in this state pursuant to Code chapter
35 521A must pay the reasonable expenses of the commissioner's

1 participation in the administration of new Code section
2 521A.6B, including the engagement of experts and all reasonable
3 travel expenses. The commissioner is required to adopt rules
4 pursuant to Code chapter 17A to administer the new provision.
5 Code section 521A.7(1) is amended to provide that all
6 information reported or provided to the commissioner pursuant
7 to Code section 521A.6A and new Code section 521A.6B must
8 be given confidential treatment, shall not be subject to
9 subpoena, shall not be subject to discovery or admissible in
10 evidence in a private civil action, and shall not be made
11 public by the commissioner or any other person except under
12 specified circumstances. The commissioner is authorized to
13 use such information, documents, or copies in the furtherance
14 of any regulatory or legal action brought as part of the
15 commissioner's official duties.
16 IOWA CEMETERY ACT. Code sections 521I.808 and 523I.813(1)
17 and (2) are amended to delete references to a fiscal year
18 relating to the time period when examination fees and annual
19 reports must be submitted by cemeteries to the commissioner.